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C O N F I D E N T I A L SECTION 01 OF 03 CARACAS 000292

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STATE PASS USAID FOR DCHA/OTI
NSC FOR CHRIS BARTON
USCINCSO FOR POLAD

E.O. 12958: DECL: 01/27/2014
TAGS: PREL PGOV VE OAS
SUBJECT: DAS DESHAZO'S MEETING CHIEF JUSTICE RINCON

CLASSIFIED BY: AMBASSADOR CHARLES S. SHAPIRO FOR REASONS 1.4(B) AND (D)

SUMMARY

11. (C) DURING A JANUARY 22, 2004 MEETING WITH SUPREME COURT (TSJ) CHIEF JUSTICE IVAN RINCON, WHA DEPUTY ASSISTANT SECRETARY PETER DESHAZO NOTED THAT THE USG REMAINS VITALLY

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INTERESTED IN A DEMOCRATIC AND ELECTORAL PROCESS, SUPPORTS THE EFFORTS OF THE CARTER CENTER AND THE ORGANIZATION OF AMERICAN STATES (OAS) TO MONITOR THE SIGNATURE VERIFICATION PROCESS, AND VIEWS AS ABSOLUTELY ESSENTIAL THE INDEPENDENCE OF THE NATIONAL ELECTORAL COUNCIL (CNE). RINCON SAID THE TSJ WILL NOT BE BIASED IN ANY DECISIONS REGARDING A REFERENDUM. FOLLOWING THE MEETING, RINCON PUBLICLY REMINDED THE CNE TO VERIFY SIGNATURES FOR RECALL REFERENDA RESPONSIBLY AND PLEDGED THE TSJ WOULD REMAIN VIGILANT. RINCON'S PUBLIC STATEMENT SHOWS A WILLINGNESS TO IMMEDIATELY TRANSLATE PRIVATELY COMMUNICATED USG CONCERNs INTO PUBLIC STATEMENTS.
END SUMMARY.

RINCON PRAISES EMBASSY SUPPORT FOR JUDICIAL REFORM

12. (C) ON JANUARY 22, 2004, WHA DEPUTY ASSISTANT SECRETARY PETER DESHAZO, THE AMBASSADOR, AND PD OFFICER MET WITH JUSTICE IVAN RINCON, THE PRESIDENT OF VENEZUELA'S SUPREME COURT OF JUSTICE (TSJ). JUSTICE JESUS CABRERA, ALSO A MEMBER OF THE TSJ'S CONSTITUTIONAL CHAMBER, JOINED THE MEETING AS IT WAS DRAWING TO A CLOSE.

13. (C) RINCON WELCOMED DAS DESHAZO TO THE TSJ AND THANKED THE AMBASSADOR FOR CONTINUED EMBASSY ASSISTANCE WITH VENEZUELA'S JUSTICE SECTOR REFORM EFFORTS. RINCON NOTED THE SUCCESS OF A RECENT EMBASSY-SPONSORED PROGRAM IN WHICH SEVERAL VENEZUELAN JUDGES AND A SUPREME COURT JUSTICE TRAVELED TO THE UNITED STATES. RINCON SAID HE ADMIRED THE MANNER IN WHICH THE US JUSTICE SYSTEM ALLOWED FOR COOPERATION BETWEEN LEVELS OF AUTHORITY, FOR EXAMPLE BETWEEN THE MILITARY COURTS AND THE CIVIL POLICE.

USG INTEREST IN SIGNATURE VERIFICATION PROCESS

14. (C) DAS DESHAZO TOLD RINCON HE HAD RETURNED TO VENEZUELA TO EXPRESS USG SUPPORT FOR A CONSTITUTIONAL, ELECTORAL, DEMOCRATIC, AND PEACEFUL SOLUTION TO VENEZUELA'S POLITICAL IMPASSE, OF WHICH THE CURRENT PROCESS OF VERIFICATION OF SIGNATURES BY THE CNE IS THE KEY ELEMENT. DESHAZO underscored that the USG strongly supports the efforts of the CARTER CENTER AND THE ORGANIZATION OF AMERICAN STATES (OAS) TO MONITOR THE SIGNATURE VERIFICATION PROCESS. HE FURTHER EMPHASIZED THE NEED TO ENSURE THAT THE CNE BE ABLE TO OPERATE IN AN ATMOSPHERE OF TRANSPARENCY AND AUTONOMY, FREE FROM INTERFERENCE.

15. (C) RINCON SAID THE CONSTITUTION ASSIGNS RESPONSIBILITIES TO THE CNE, BUT THE TSJ IS CHARGED WITH ENSURING A LEGAL FRAMEWORK. THE VERIFICATION PROCESS, SAID RINCON, INVOLVES CERTIFYING SIGNATURE FORMS (PLANILLAS) AND TALLY SHEETS (ACTAS). RINCON SAID THE VERIFICATION TASK IS SQUARELY IN THE HANDS OF THE FIVE CNE DIRECTORS, AND THEY WILL BE RESPONSIBLE FOR VERIFYING THE SIGNATURES TO GET TO A RECALL REFERENDUM FOR CHAVEZ, AS WELL AS VERIFYING SIGNATURES FOR RECALLING VARIOUS LEGISLATORS. ANY CITIZEN COULD OF COURSE APPEAL ANY CNE DECISION TO THE TSJ, BUT HE EXPECTED APPEALS TO BE DECIDED RAPIDLY.

16. (C) THE AMBASSADOR ASKED WHETHER AUTHENTIC SIGNATURES WOULD BE DISALLOWED FOR TECHNICAL REASONS IF, FOR EXAMPLE, A SIGNATURE FORM WAS NOT PROPERLY ACCOUNTED FOR IN THE CORRESPONDING TALLY SHEET. RINCON RESPONDED THAT EVERYTHING WOULD BE CERTIFIED BY THE CNE AND THAT SUCH ISSUES WOULD CERTAINLY DEPEND ON THE RULES THAT BODY ESTABLISHED. THE TSJ'S ELECTORAL AND CONSTITUTIONAL CHAMBERS, HE SAID, COULD

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NOT DECIDE SUCH THINGS BEFOREHAND AND MAKING STATEMENTS ON
THE VERIFICATION PROCESS FROM THE TSJ MAY BE

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SUPPORTERS OR THE PRESIDENT HIMSELF MAKING DIPLOMATIC
REMARKS ABOUT THE AMBASSADOR, PRESIDENT BUSH OR NATIONAL
SECURITY ADVISOR CONDOLEEZA RICE. RINCON NOTED THAT
RESPONDING TO CHAVEZ IS NOT ALWAYS WISE. SO IT IS, HE SAID,
WITH THE CURRENT CNE PROCESS. IF THE SIGNATURES ARE
VERIFIED, THAT WILL OPEN A ROAD TO A RECALL REFERENDUM.

FEDECAMRAS WILTED, JIMMY CARTER INSPIRING

17. (C) RINCON RESPONDED TO SEVERAL QUESTIONS BY THE DAS
AND THE AMBASSADOR ABOUT CURRENT PLAYERS IN THE VENEZUELAN
ELECTORAL AND POLITICAL SCENE. WHILE THE PRESS AND CHAVEZ
HAD PROBLEMS, THE PRESS, SAID RINCON, WAS A GOOD INSTITUTION.
RINCON SAID THE POWER OF FEDECAMRAS, A BUSINESS COLLECTIVE
AND A COORDINATOR OF THE CRIPPLING NATIONAL STRIKE IN
DECEMBER 2002-FEBRUARY 2003, HAD NOW LARGELY DISAPPEARED.

8 (C) RINCON RECALLED THAT DURING THE ATTEMPTED COUP IN
APRIL 2002, A MILLION PEOPLE WERE IN THE STREET, CREATING A
VERY "DANGEROUS MOMENT" AND AN ENVIRONMENT WHERE PEOPLE WERE
BEING KILLED AND LITTLE HOPE EXISTED FOR AN ELECTORAL
SOLUTION. RINCON NOTED THAT FORMER PRESIDENT JIMMY CARTER
CALLED ON VENEZUELANS TO BE PEACEFUL AND THAT WAS
INSTRUMENTAL IN GETTING THE PARTIES TO SETTLE DOWN AND
PROCEED TOWARDS A PEACEFUL SOLUTION.

CABRERA WALKS IN, RINCON CHANGES TOPIC

19. (C) LATE IN THE CONVERSATION, JUSTICE JESUS CABRERA,
VICE PRESIDENT OF THE TSJ'S CONSTITUTIONAL CHAMBER, JOINED
THE MEETING. WHEN CABRERA ENTERED, RINCON CHANGED THE TOPIC
TO THE CURRENT JOCKEYING TO CHANGE THE INTERNAL RULES OF THE
NATIONAL ASSEMBLY AND RECALL POLITICS. RINCON SAID CHAVEZ
SUPPORTERS ARE SEEKING TO SOLIDIFY THEIR CONTROL OF THE
NATIONAL ASSEMBLY TO ENSURE THEY RETAIN SOME POWER IF CHAVEZ
FALLS. HE NOTED THAT THE OPPOSITION WAS AT A DISADVANTAGE
BECAUSE HAVEZ HAD BEEN RUNNING FOR OFFICE FOR FIVE YEARS AND
THE OPPOSITION STILL HAS NO SINGLE CANDIDATE TO CHALLENGE
HIM.

TSJ CONSTITUTIONAL VP PLEDGES NO BIAS

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110. (C) CABRERA SAID THE USG SHOULD BE ASSURED THAT THERE
WILL BE NO ADVANTAGE GIVEN TO EITHER CHAVEZ OR TO HIS
OPPONENTS IF THE COURT IS ASKED TO REVIEW ISSUES REGARDING A
RECALL REFERENDUM. NEVERTHELESS, HE NOTED THAT CHAVEZ
SUPPORTERS OBVIOUSLY DID NOT ANTICIPATE IN THE SIGNATURE
DRIVE TO REMOVE THE RESIDENT AND THEREFORE WOULD MOST LIKELY
NOT COME BEFORE THE COURT. (NOTE: CABRERA IGNORED THE
POSSIBILITY THAT THE COURT MAY REVIEW ISSUES STEMMING FROM
THE SEVERAL SIGNATURE PETITIONS TO RECALL OPPOSITION
LEGISLATORS BROUGHT BY CHAVEZ SUPPORTER.) WITHOUT
PROMPTING, CABRERA EMPHASITICALLY DENIED REPORTS THAT THE
TSJ'S CONSTITUTIONAL CHAMBER IS CONTROLLED BY CHAVEZ,

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STATING DECIDEDLY, "OUR DECISIONS WILL NOT BE POLITICAL."

111. (C) RINCON ADDED THAT THE OPPOSITION SHOULD HAVE FAITH
IN THE TSJ'S CONSTITUTIONAL CHAMBER, NOTING IT WAS THAT
CHAMBER THAT RULED AGAINST CHAVEZ IN THE TREASON CASE BROUGHT
AGAINST MILITARY OFFICERS FOLLOWING THE APRIL 2002 COUP
ATTEMPT. HE REPEATED A LINE FROM HIS SPEECH AT THE OPENING
OF THE TSJ'S DECISION: "OUR PARTY IS DEMOCRACY."

RINCON WARNS CNE IN PUBLIC STATEMENT

112. (U) FOLLOWING HIS MEETING WITH DAS DESHAZO AND THE
AMBASSADOR, RINCON TOOK TO THE AIRWAVES TO REMIND THE CNE TO
ACT PRUDENTLY. SPEAKING WITH THE PRESS, THE CHIEF JUSTICE
SAID THE CNE MUST DO EVERYTHING POSSIBLE TO FULFILL ITS
RESPONSIBILITY TO FOLLOW THE RULES IT HAD ESTABLISHED TO
VERIFY SIGNATURES IN THE SEVERAL PETITIONS FOR RECALL

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AYNG HE WAS CONFIDENT THE CNE WOULD
ACT AS REQUESTED. ADDITIONALLY, HE PLEDGED THAT THE TSJ
WOULD REMAIN VIGILANT TO ENSURE THE "PEOPLE'S WILL" WAS
RESPECTED.

COMMENT

¶15. C) RINCON PRESIDES OVER A COURT SPLIT EVENLY ALONG IDEOLOGICAL LINES. RINCON IS REGARDED AS A CENTIST LEANING TOWARD CHAVEZ, BUT IS NOT LOVED BY CHVEZ SUPPORTERS OR THE OPPOSITION. THE RUMOR MIL HAS IT THAT ONCE THE ASSEMBLY INCREASES THE NUMER OF TSJ MAGISTRATES FROM 20 TO 30, CHAVEZ WILLNAME RINCON, A DEVOUT CATHOLIC, TO BE AMBASSADOR T THE VATICAN. RINCON'S PUBLIC STATEMENT IMMEDIATELY FOLLOWING HIS MEETING WITH DAS DESHAZO SENDS DOUBLE MESSAGE. FIRST, IT SHOWS AN INTEREST INENCOURAGING THE CNE TO PRESS THROUGH WITH ITS SINATURE VERIFICATION FOR A POSSIBLE RECALL. SECON, IT SHOWS A WILLINGNESS TO SUPPORT THE USG AND THE INTERNATIONAL COMMUNITY BY IMMEDIATELY TRANSLATIG PRIVATELY COMMUNICATED CONCERNS INTO PUBLIC STTEMENTS.

¶16. (U) DAS DESHAZO REVIEWED THIS MESSGE.
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